



October 12, 2023

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**VIA IZIS**

Anthony Hood, Chairperson  
D.C. Zoning Commission  
441 4th Street, NW, Suite 200S  
Washington, DC 20001

**RE: ZC Case No. 20-33B  
Applicant's Proposed Findings of Fact and Conclusions of Law**

Chairperson Hood and Honorable Members of the Commission:

On behalf of the Applicant D.C. Department of General Services (the "Applicant"), please find enclosed the Applicant's proposed findings of fact and conclusions of law.

Sincerely,  
COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'MM', with a horizontal line underneath.

Meridith Moldenhauer

A handwritten signature in blue ink, appearing to read 'ED', with a horizontal line underneath.

Eric J. DeBear

**Certificate of Service**

I HEREBY CERTIFY that on this 12<sup>th</sup> day of October, 2023, a copy of the Applicant's cover letter with attachments was served, via email, on the following:

District of Columbia Office of Planning  
c/o Crystal Myers  
1100 4<sup>th</sup> Street SW, Suite E650  
Washington, DC 20024  
Crystal.Myers@dc.gov

Advisory Neighborhood Commission 3F  
c/o Claudette David, Chair  
James Tandaric, SMD 3F05  
3F04@anc.dc.gov  
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Meridith Moldenhauer

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF  
COLUMBIA ZONING COMMISSION ORDER NO. 20-33B**

**Z.C. Case No. 20-33B**

**D.C. Department of General Services**

**On Behalf of University of the District of Columbia**

**(Further Processing and Amendment to an Approved Campus Plan)**

**September 21, 2023**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a virtual public hearing on September 21, 2023, to consider the application (the “Application”) of D.C. Department of General Services (“Applicant”), on behalf of the University of the District of Columbia (“UDC”), for the review and approval of a Further Processing and Amendment to the approved 2020-2029 UDC Campus Plan (“Campus Plan”) for the construction of a new D.C. archives building (the “Project”). The Application was processed pursuant to Chapter 1 of Subtitle X of the Zoning Regulations for 2016, Title 11 of the District of Columbia Municipal Regulations (the “Zoning Regulations”). The public hearing was conducted in accordance with Subtitle Z, Chapter 4 of the Zoning Regulations. The property that is the subject of the Application is part of UDC’s Van Ness Campus (the “Campus”), which is located on Lot 812 in Square 1964 and having a street address of 4200 Connecticut Avenue NW (the “Property”). For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT**

**I. Background**

**The Applicant and UDC**

1. The Applicant is the D.C. Department of General Services, a District of Columbia government agency that oversees construction, management, and maintenance of all District-controlled real estate.
2. The Applicant is pursuing the Project on behalf of its client-agency, D.C. Office of Public Records (“OPR”). OPR is a division of the D.C. Office of the Secretary that schedules, collects, stores, and manages the records of the District of Columbia government. (Exhibit “Ex.” 3).

3. UDC was founded in 1851 and is the only public university in the District of Columbia. UDC has 75 undergraduate and graduate academic degree programs. In addition to the Campus, UDC has several satellite campuses, including a community college, through the District of Columbia. (Ex. 3).

### **Parties**

1. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
  - The Applicant; and
  - Advisory Neighborhood Commission 3F (“ANC 3F”), the ANC in which the Property is located and, therefore, an “affected ANC” pursuant to Subtitle Z § 101.8.
2. The Commission received a request for party status in support filed by the Archives Advisory Group. (Exhibit (“Ex.”) 25). However, the Archives Advisory Group submitted a letter withdrawing its request for party status prior to the Commission’s decision on the request. (Ex. 35).
3. There were no parties in the underlying Campus Plan approval in Z.C. Case 20-33.

### **Notice**

4. Pursuant to Subtitle Z § 302.6, on April 7, 2023, the Applicant mailed a Notice of Intent to file a Zoning Application to all property owners within 200 feet of the Property and to ANC 3F. (Ex. 3D).
5. Pursuant to Subtitle Z § 402, the Office of Zoning (“OZ”) provided notice of the September 21, 2023 virtual public hearing by:
  - A July 5, 2023 letter with the Notice of Public Hearing sent to: (Ex. 6-7)
    - The Applicant;
    - ANC 3F;
    - ANC Single Member District (“SMD”) Commissioners 3F01, 3F03, and 3F05;
    - Councilmember Matthew Frumin;
    - Office of ANC;
    - Office of Planning (“OP”);
    - D.C. Department of Transportation (“DDOT”);
    - D.C. Department of Buildings (“DOB”);
    - Zoning Commission lead attorney;
    - D.C. Department of Energy and Environment (“DOEE”);
    - At-Large Councilmembers and the Chair of the Council; and
    - Owners of property within 200 feet of the Property.
  - Publication of the Notice of Public Hearing in the July 14, 2023 edition of the *D.C. Register*. (Ex. 5).

6. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing at the Property on August 10, 2023 and maintained such notice. (Ex. 10, 34).

### **The Campus**

7. The Property that is the subject of the Application is UDC's Van Ness campus. The Campus is located in the Van Ness neighborhood and is circumscribed by Connecticut Avenue NW to the east, Van Ness Street NW to the south, Yuma Street NW to the north and International Court NW (a private road) to the west. The Van Ness/UDC Metrorail Station is directly adjacent to the Campus on Connecticut Avenue NW. The Campus is within the R-1-B zone. (Ex. 3, 3G1-3G6).
8. The Campus obtained its first Campus Master Plan in 2011 under ZC Case No. 11-02 and the most recent update was approved for 2020-2029 under ZC Case No. 20-33.
9. The Campus Plan identified a number of over-arching goals for the Campus, including strengthening the image and character of the Campus, incorporating contemporary building materials like glass and metal, creating a more vibrant Campus, and improving green space and pedestrian circulation. (Ex. 3; September 21, 2023 Hearing Transcript ("Tr."), pgs. 27-30).

### **Building 41**

10. The Project is proposed in the location of Building 41 at the southwestern corner of the Campus. (Ex. 3, 3G1-3G6).
11. Building 41 was constructed in 1979 and was most recently used by UDC for the College of Arts and Sciences and library. Building 41 also houses the UDC Jazz Archives as well as an unaffiliated child development center use. (Ex. 3).
12. Building 41 is a "brutalist" structure designed in an octagonal shape with large amounts of concrete and minimal window penetrations. The building is designed with a passageway at ground level that allows pedestrian access from Van Ness Street to Dennard Plaza and the center of Campus. The pedestal of a parking garage serving the Campus is located below Building 41. Building 41 is not landmarked or a historically-contributing structure. (Ex. 3).
13. Based on an assessment in 2008, UDC found that Building 41 is in poor condition and nearing the end of its useful life. The building has experienced years of deferred maintenance, and the roof, exterior walls, HVAC system and interior finishes are all in need of replacement. Additionally, Building 41 is not designed for the modern user with minimal natural light, efficient floor space and poor internal circulation. (Ex. 3; Tr., pgs. 25-26).
14. At the time of the Campus Plan, UDC had already begun relocating occupants out of

Building 41. As of the filing of the Application, Building 41 was no longer used for UDC students and was vacant with the exception of the UDC Jazz Archives, which is awaiting an interim home before the Project is constructed, and an unaffiliated child development center that will operate through the end of 2023. (Ex. 3; Tr., pgs. 25-26).

## **II. The Application**

### **Project History**

15. The Project addresses a critical need for the appropriate storage, preservation, and protection of vital public historic records in the District of Columbia. The current D.C. archives building is located at 1300 Naylor Court NW, a facility that is at capacity and without appropriate space or systems to service the city's historical records. Due to the facility's lack of capacity, OPR pays substantial fees to rent off-site storage space for records. (Ex. 3).
16. The District of Columbia's pursuit of a new archives facility dates to 2012. Since that time, the government has commissioned several reports to assess the programming needs of an archives facility as well as to conduct site exploration of District-owned or controlled properties. (Tr., pgs. 32-33).
17. In July 2018, the District of Columbia government and UDC entered into a Memorandum of Agreement regarding a new D.C. archives building to be on Campus in the location of Building 41. (Ex. 90, 90A; Tr., pg. 32).
18. In December 2018, the District of Columbia commissioned a "Co-Location Study" conducted by the Project architects to assess the condition of Building 41 and study five schemes for the archives project. The "Co-Location Study" recommended further consideration of "Scheme 5," which proposed replacing Building 41 with the archives project. (Ex. 90, 9D1-D2; Tr., pgs. 32, 224).
19. In 2020, UDC filed the Campus Plan. At that time, there was no final decision as to whether Building 41 would be demolished. (Tr., pgs. 32-33). The Campus Plan was approved by the Commission in July 2021, with the written order issued in May 2022.
20. In Spring 2022, OPR hired Dr. Matthews as the State Archivist and Public Records Administrator, amongst other responsibilities, to move the Project forward. (Tr., pg. 33).
21. In November 2022, the Project architects, on behalf of the Applicant, issued a final program of requirements for the Project, which included the need to demolish Building 41. (Tr., pg. 33).
22. On June 9, 2023, the Applicant, as authorized by UDC, filed the Application for review and approval of an amendment to the Campus Plan and further processing to construct the Project.

### **Campus Plan Amendment**

23. As part of the Campus Plan, UDC designated two potential outcomes for Building 41: Decommissioned and the D.C. archives would be consolidated into Building 41 or rehabilitated for use as academic space.<sup>1</sup> The option for academic space was proposed in the event the Applicant did not move forward with the Project. During the hearing, UDC testified that it lacked the internal funds to rehabilitate Building 41 for academic space, but that a partnership with the Applicant on the Project allowed it to acquire the building at 4250 Connecticut Avenue NW for use by the College of Arts and Sciences. (Ex. 3, Tr., pg. 26, 63).
24. The Applicant is pursuing an amendment to the Campus Plan to demolish Building 41 and construct a new building for the D.C. archives, rather than consolidate the archives within the existing Building 41. Several factors contribute to the proposal to demolish Building 41, including the poor condition of Building 41 and the specific and unique programmatic needs of the Project. (Ex. 3; Tr., pgs. 222-24).
25. UDC testified that it relocated occupants and decommissioning Building 41 due to its poor condition and unsuitable nature for UDC uses. UDC's decision to relocate and discontinue use of Building 41 is reflected in the Campus Plan. (Tr., pgs. 25-27).
26. The decision to demolish Building 41 is also driven by the specific and unique programmatic needs of an archival building. The Applicant's team established several factors that make it challenging to retrofit Building 41 for an archival use. An archival building must resist significantly heavier structural loads to support storage equipment. Yet, Building 41's existing structural systems are inadequate and cannot reasonably be strengthened to meet these load requirements. To accommodate proper storage systems, archival facilities have substantially taller floor-to-floor heights in comparison to Building 41, which has existing floor-to-floor heights of only 14'8" on floors one through three and 12 ft. 8 in. on floors four through six. To properly preserve records, archival facilities need a stringent building envelope and interior environmental conditions with temperature and humidity control. Building 41 needs a new HVAC system and has minimal/non-existent thermal insulation at exterior walls and roof. An archival building also has more intense loading needs that Building 41 cannot accommodate. Building 41's octagonal-shaped floor plan with its many triangular structural bays is also not conducive for the effective use of compact mobile storage equipment. Finally, Building 41 is not large enough to meet the city's needs for archival storage. Accordingly, Building 41 would require extensive and cost-prohibitive renovations to be re-used for the Project. (Ex. 3; Tr., pgs. 35, 222-24).
27. UDC testified that the demolition and new construction of the Project will help to achieve many of the goals identified in the Campus Plan, including to make the Campus a destination for current and prospective students and D.C. residents and to move away from the "brutalist" style architectural form on campus and toward a contemporary palette. UDC

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<sup>1</sup> A third option to use Building 41 for student housing was originally proposed but later removed from the Campus Plan. See ZC Case No. 20-33, Ex. 25A.

found that the Project will greatly improve the physical character and pedestrian connectivity of the Campus. The new green space on Dennard Plaza is also consistent with Campus Plan goals and will be a benefit to the student body. (Ex. 3; Tr., pgs. 27-30).

### **Further Processing**

28. The Project is a new, four-story building that will be used for the District of Columbia archives and operated by OPR. The Project programming includes the following:

- A primary entrance facing Van Ness Street NW and adjacent to Dennard Plaza, which will have security screening that is consistent with protocols for archival facilities;
- A large lobby area, multi-purpose room with movable partitions, exhibit space;
- Paper storage, cool storage for art and artifacts, and digital storage facilities;
- A research center;
- A records receiving room and intake processing room;
- Offices for archival staff and UDC staff, a pantry and lounge;
- A processing room for UDC's archival collections; and
- Work stations and research areas for records review.

(Exs. 3, 23A1-A5).

29. The Project will improve connectivity by removing the existing ramp to the parking garage, re-grading the area, and installing new steps and accessible ramp from the public right-of-way. The Project also has a smaller footprint than Building 41, which will allow for more open space between the Project and the neighboring building. The Project also includes new landscaping and hardscaping around the building, including at the western end of Dennard Plaza. (Exs. 3, 23A1-A5).

30. The Project will have two, separate loading docks, with one designated specifically for records delivery and the second loading dock for standard building needs, such as trash. The loading dock will be accessed from an access road off Van Ness Street NW. The existing parking garage serving the Campus will be maintained, although the Project will reduce the total number of spaces from 715 to 710. The Applicant has worked with UDC to reserve approximately 28 spaces for OPR staff and D.C. government vehicles. The Project will have 33 long-term bicycle parking spaces, two shower rooms, and 8 short-term bicycle parking spaces. (Exs. 3, 23A1-A5).

31. The Project incorporates a contemporary architectural style with large amounts of glass,



particularly on the eastern and southern facades. The entrance area consists of a one-story elliptical drum that enlarges to a three-story curvilinear window wall facing Dennard Plaza. The Project's western and northern façades will consist primarily of solid precast concrete paneling with minimal window penetrations. This design choice is driven by the specific programming needs for records storage, including providing consistent interior temperature and relative humidity levels. (Exs. 3, 23A1-A5).

32. The Project has a maximum height of 73 ft., with a mechanical penthouse of 13 ft. The Project proposes a total gross floor area of 117,790 sq. ft. and reduces the total Campus floor-area-ratio from 1.37 to 1.32. (Exs. 3, 23).

### **Applicant's Submissions**

33. On June 9, 2023, the Applicant filed the initial Application and related materials. (Ex. 1-3G6).
34. On August 21, 2023, the Applicant submitted a Transportation Report prepared by Gorove/Slade, the Applicant's traffic and transportation expert. (Ex. 12-12B).
35. On September 1, 2023, the Applicant filed a supplemental statement that includes the following:
- Architectural Updates: The Applicant provided an updated architectural plan set that included changes that are responsive to comments from the U.S. Commission of Fine Arts ("CFA") and National Capital Planning Commission ("NCPC");
  - Community Outreach: The Applicant provided an update on community outreach, including meetings with the UDC-community task force and ANC 3F. The Applicant detailed how it is addressing community concerns regarding the removal of community gardens adjacent to Building 41. The Applicant stated that there is approximately 11,210 sq. ft. of community garden space on Campus, and that the construction of the Project would result in the temporary closing of 6,160 sq. ft. of garden space. The Applicant identified 1,785 sq. ft. of garden space that would be re-opened within the Project work area, and that it was working with UDC to identify other locations on Campus for the remaining 4,375 sq. ft. The Applicant noted that the additional garden space could not be re-opened directly adjacent to the Project due to stormwater requirements and best practices for archive facilities. Additionally, the Applicant addressed community concerns regarding engagement with the UDC student body for the Project;
  - Agency Outreach: The Project is subject to review by CFA and NCPC. The Applicant detailed its presentations to and approval by CFA. The Applicant also presented to NCPC with a follow-up presentation expected in Fall 2023;
  - Racial Equity Analysis: In response to OP's request, the Applicant provided a supplement to the racial equity analysis in the Application. The Applicant detailed how the Project advances equitable goals in the Community Services and Facilities Element

and the Arts and Culture Element of the Comprehensive Plan. The Applicant also provided a more detailed summary of community outreach.

- Design Flexibility: The Applicant incorporated a request for design flexibility in the final order; and
- Witnesses: The Applicant outlined the witnesses that will offer testimony at the public hearing.

(Ex. 23-23E).

36. On October 5, 2023, the Applicant filed a post-hearing submission responding to issues and comments from the Commission and the community during the hearing. The post-hearing submission included the following:

- Community Engagement: The Applicant addressed comments from the Commission and the community regarding outreach and engagement to UDC's student body in connection with the Project. The Applicant provided information on outreach in connection with the Campus Plan, which contemplated the Project, as well as through UDC's Operations Committee and Board of Trustees. Additionally, the UDC-community Task Force is required as part of the Campus Plan approval and has conducted meetings since 2020. Task Force meetings are noticed with ANC 3F and other local publications and gives an opportunity for community members to ask questions and create discussion topics regarding UDC;
- Garden Replacement: In response to community testimony in opposition to the Project's impact on community gardens, UDC committed to providing land for the remaining portion of the existing community gardens in an area just to the north of the Project. UDC identified 9,300 sq. ft. of land for community garden space, which is significantly more than the remaining 4,375 sq. ft. of the existing gardens that are being closed due to the Project;
- Co-Location Study: The Applicant enclosed a copy of the December 2018 Co-Location Study conducted by the Applicant and the Project architects. The Co-Location Study was requested by the Commission to understand the origins of the Project, and how the Applicant studied Building 41. The Co-Location Study recommended further consideration and development of "Scheme 5," which proposed replacing Building 41 with a new archives building;
- Student Housing: Some community members stated a preference for student housing in the location of Building 41. As requested by the Commission, UDC provided alternative locations for student housing that UDC has explored, including those reflected in the Campus Plan;
- Net Zero: The community and Commission raised questions regarding the applicability of the Greener Government Buildings Amendment Act of 2022 to the

Project. The Applicant is working with its Office of General Counsel to assess the applicability of the legislation. Nonetheless, the Commission requested an understanding of why the Project presents unique challenges to meet the “net zero” energy standard set forth in the legislation. As such, the Applicant outlined three factors, including the challenges of installing geothermal wells within the Project area or nearby on Campus, the lack of roof area on the Project to provide sufficient solar photovoltaic panels, and the difficulty in eliminating the use of fossil fuels to provide energy savings; and

- Student Professional and Educational Opportunities: Finally, the Applicant provided a commitment to explore employment opportunities at the Project and education opportunities during construction of the Project for UDC students.

(Ex. 90-90D2).

37. On \_\_\_\_\_, the Applicant filed proposed findings of fact and conclusions of law pursuant to Subtitle Z § 601.1. (Ex. \_\_\_\_).

### **III. Applicant's Justification for Relief**

38. The Applicant provided evidence that the Application meets the review standards for Campus Plans under Subtitle X § 101.

39. **Education Use by a College or University (Subtitle X § 101.1)**. The Project is located on the Campus and will further UDC's education use. The Applicant's team provided testimony of the many benefits of co-locating the Project on UDC's Campus, including the place-making architecture, the record and collection storage for UDC's archival collections, the shared research opportunities with UDC faculty, staff and students, educational and employment opportunities for UDC students, shared records processing and work spaces, energy and environmental sustainability, and the improvements to landscaping and connectivity to Dennard Plaza. (Ex. 3; Tr., pgs. 18-20, 34-35, 52-54, 64-65).

40. **The Use is Not Likely to Become Objectionable to Neighboring Property (Subtitle X § 101.2)**. The Project will not be objectionable in terms of noise, traffic, parking, number of students or other conditions.

- *Noise*: The Project is primarily used for storage of documents and artifacts as well as a research space, both of which do not create noise. The Project will host modestly-sized events that will be held within the building, which is not adjacent to any residential uses. The Project is setback over 52 ft. from Van Ness Street NW, a 90-foot-wide right-of-way.
- *Traffic and parking*: The Applicant expects approximately 30 visitors per day to the Project, which is significantly less than the prior uses of Building 41. There will be ample parking available in the below-grade parking garage that serves the Campus. Additionally, the Project is easily accessible from Metrorail and

Metrobus. The Project is also designed with sufficient loading facilities to meet the loading needs of an archival use. The evidence with respect to parking and traffic is supported by the Applicant's transportation expert.

- *Number of students and other conditions:* The Project will not increase the number of students on Campus or the number of students visiting the portion of Campus where the Project is located. The prior use as the College of Arts and Sciences and library resulted in heavier use by students than what is expected for the Project. The Applicant does not expect other objectionable conditions related to the Project.

(Exs. 3, 12).

41. **The Project Does Not Propose a Commercial Use (Subtitle X §§ 101.3-101.4).** The Project is not a commercial use and, therefore, the conditions under Subtitle X §§ 101.3-101.4 do not apply. (Ex. 3).

42. **Compliance with Maximum Bulk Requirement (Subtitle X §§ 101.5-101.7, 101.12).** The Project will decrease Campus floor-area-ratio from 1.37 to 1.32. The total FAR with the Project remains under the floor-area-ratio of 1.56 approved in the Campus Plan, as amended. (Ex. 3).

43. **Submission for Developing the Campus as a Whole (Subtitle X § 101.8).** The Commission approved UDC's Campus Plan as part of ZC Case No. 20-33.

44. **The Project Complies with the Standard for Special Exception Relief (Subtitle X §§101.9, 101.14).** The Project complies with the general standard for special exception relief, as follows.

- *Harmony with Purpose and Intent of Zoning Regulations:* The Project meets a critical need for the District of Columbia and is designed to be consistent with all zoning standards for a university use in the R-1-B Zone, including as to FAR, height, lot occupancy, yards, parking, and loading. The Project will visually improve the Campus and create better connectivity to the Campus.
- *No Adverse Impacts to Neighboring Properties:* The Project will not adversely affect neighboring properties in terms of noise, traffic, parking, or number of students. The Project has less square footage and height than Building 41. Nonetheless, the Project is buffered from all adjacent non-Campus uses. The Project will have parking and loading that meet the needs of an archival facility.

(Ex. 3).

45. **No Interim Off-Campus Land Use (Subtitle X § 101.10).** The Project does not propose an interim off-campus use of land.

46. **Consistency with District Elements of the Comprehensive Plan (Subtitle X § 101.11).** The Applicant provided evidence that the Application is not inconsistent with the District

Elements of the Comprehensive Plan as viewed through a racial equity lens, as follows:

*Maps and Policies:* The Application is consistent with the Comprehensive Plan's Future Land Use Map ("FLUM") and Generalized Policy Map ("GPM"). The FLUM designates the Campus as a "Local Public Facility" intended for "land and facilities occupied and used by the District of Columbia government or other local government agencies." See 10A DCMR § 227.17. The GPM designates the Campus as "Institutional," corresponding to college and university uses where "change and infill can be expected on each campus consistent with campus plans." The Project is a local public facility that will be operated by OPR located on the Campus, which is the public university in the District of Columbia. As such, it is consistent with the FLUM and GPM designations.

The Comprehensive Plan specifically contemplates that a public archives facility could be located on UDC's Campus, directing the exploration of "synergistic opportunities for UDC to house archival documents of Washington, DC." See 10A DCMR § 1212.6. The Project furthers several goals and policies set forth under the Education Element, Urban Design Element, Community Services and Facilities Element, Arts and Culture Element, Environmental Element and Rock Creek West Area Element. The Project meets the District of Columbia's need for a new archival facility with a state-of-the-art facility on UDC's Campus that will highlight the importance of UDC as a fixture in the community as well as provide access to archival records and research opportunities for UDC staff and students. EDU-2.4.4; EDU-3.1.1; EDU-3.2.2; EDU-3.2.4; EDU-3.2.5; CSF-1.1.2, CSF-1.1.8 CSF-1.1.9, CSF 1.1.10, CSF-1.14, CSF-3.1.E, AC-1.2.2, AC-1.1.3. The Project will provide learning opportunities and engagement for District residents, including through lectures and exhibits. EDU 3.3.8; 3.3.11; RCW-1.1.6. The Project will allow for the development of the UDC Campus without adversely impacting the character of the surrounding neighborhood. EDU-3.3.2; RCW-2.3.5. The Project offers memorable and sustainable architectural design and further proposes to improve Dennard Plaza for use by students. UD-4.1.2; UD-4.2.2; UD-4.2.3; UD-4.2.4.; E-3.2. (Exs. 3, 23).

- *Racial Equity Lens:* The Project furthers the Comprehensive Plan's "racial equity" goals as reflected in the Commission's Racial Equity Tool. (Ex. 13, 22). UDC is an "historically black college and university" that has a student population that is mostly Black and Hispanic. Therefore, UDC is uniquely positioned to address racial equity imperatives by providing educational and advancement opportunities to minority populations. UDC's Equity Imperative acknowledges the role it plays in meeting the District's equity goals and reflects the importance of investment in the university's facilities and infrastructure to attract quality faculty and staff. The Application will have a positive impact on several equity themes, including no direct or indirect displacement, improving the physical environment on Campus, and providing employment and educational opportunities to UDC students. The Applicant also demonstrated that it met the process goals of the Racial Equity Tool through community outreach, including during the Campus Plan approval and the Application. The Applicant presented to ANC 3F on four occasions, held public design meetings, and regularly attended meetings of the Archives Advisory Group. The Applicant also attended the UDC-community Task Force meeting in July 2023.

47. **Referral to OP, DDOT, and Department of Energy and Environment (Subtitle X § 101.13).** The Application was referred to OP, DDOT and the Department of Energy and Environment ("DOEE"). All three agencies submitted a report or comments to the case record. (Exs. 26, 29A).

#### **IV. Responses to the Application**

##### **Office of Planning**

48. OP submitted a report dated September 8, 2023 (the "OP Report," Ex. 26) recommending that the Commission approve the Application. The OP Report concluded that:

- With respect to the proposed Campus Plan amendment, OP agreed with the Applicant's reasoning for demolishing Building 41 due to the poor condition and unsuitability for a modern archival storage facility.
- With respect to the Further Processing, OP found that the Application meets all of the requirements set forth under Subtitle X § 101. Of particular note, OP found the Project would not create objectionable conditions to neighboring properties due to noise, traffic, parking and loading, or number of students. OP also agreed with the Applicant's analysis that the Application is not inconsistent with the Comprehensive Plan as viewed through a racial equity lens. OP noted the Applicant and UDC's community outreach, including during the Campus Plan process, as well as the benefits of the Project for UDC, which mostly serves minority students. OP states that UDC is an "underinvested campus," and that the Project would be a "positive investment in a school that has suffered from underinvestment for years." OP also found that the co-location of the Project on Campus "would benefit the school, its students, and the DC Archives program."

49. At the September 21, 2023 public hearing, OP testified in support of the Application. (Tr., pgs. \_\_\_\_).

##### **DDOT Report**

50. DDOT filed a report dated September 11, 2023 (the "DDOT Report," Ex. 29A) stating that it has no objection to the Application. DDOT conditioned its support on the applicability of the Performance Monitoring Plan and Transportation Demand Management Plan approved in the Campus Plan being applicable to the Project, and the meeting of requirements for functioning of the long-term bicycle parking room.

51. At the September 21, 2023 public hearing, DDOT maintained that it has no objection to the Application. (Tr., pgs. 101-103).

##### **Additional Agency Reports**

52. The OP Report includes comments from DOEE that it believes the Greener Government Buildings Amendment Act of 2022 is applicable to the Project. Nonetheless, DOEE acknowledges it is not responsible for enforcement of that law. DOEE also states the proposal to demolish Building 41 and construct the new Project will have a greater environmental impact than the other options for Building 41 envisioned under the Campus Plan. DOEE encouraged the Applicant to conduct a life-cycle analysis to explore strategies to reduce the Project's embodied carbon impact.

### **ANC Report**

53. ANC 3F submitted a resolution dated September 19, 2023 (Ex. 86), which was adopted at a duly noticed and regularly scheduled monthly meeting, with a quorum present. The resolution states that ANC 3F voted in favor of the Application and supports the case.
54. During the hearing on September 21, 2023, ANC 3F's representative testified and reiterated ANC 3F's support for the Project and the Application. (Tr. 105-106).

### **Persons in Support or Opposition**

55. There are approximately 18 letters of support in the record. The letters provide support for the Project for reasons that include the Project will be a great resource for UDC students and an investment in UDC, Building 41 is not suitable for use and should be demolished, and the importance of a proper archives facility for the District of Columbia. (Exs. 11, 14-22, 27, 43, 54, 63, 72, 88).
56. There are approximately 51 letters of opposition in the record. The letters of opposition include, but are not limited to, the following topics: lack of community and student engagement, preference for other uses of Building 41, including as student housing, the impact of demolition of Building 41, and removal of gardens for the use of the UDC garden club. (Exs. 29, 30-33, 36-42, 44, 46-62, 64-71, 73-85).

## **IV. Public Hearing on September 21, 2023**

### **Presentation**

57. The Applicant presented testimony at the public hearing on September 21, 2023, including a powerpoint presentation. (Ex. 45). Six witnesses testified during the Applicant's presentation: Kimberly A. Bassett, Secretary of the District of Columbia; Dr. Maurice Edington, President of UDC; Javier Dussan, Vice President of Facilities & Real Estate Management at UDC; Dr. Lopez Matthews, Jr., State Archivist and Public Records Administrator for the District of Columbia; Scott Teixeira, Project architect from Hartman-Cox Architects; and William Zeid from Gorove/Slade Associates.
58. The Commission accepted the Applicant's expert witnesses, including Mr. Teixeira as an expert in architecture and Mr. Zeid as an expert in traffic and transportation.

59. Secretary Kimberly A. Bassett testified about the critical need for public records storage in the District of Columbia, the inadequate current archives facility, and the District of Columbia's partnership with UDC on the Project.
60. Dr. Maurice Edington testified about UDC's background and history, the goal to transform UDC into a flagship institution that can compete with similar tier academic institutions, and the benefits to students and faculty of the Project.
61. Javier Dussan presented testimony about the poor condition of Building 41, the goal of the Campus Plan to decommission Building 41 and to welcome the archives to the Campus. Mr. Dussan also testified that UDC did not have funds to renovate Building 41 for academic space. Whereas, the partnership with the District of Columbia helped to fund UDC's acquisition of a new building at 4250 Connecticut Avenue NW. Additionally, Mr. Dussan also reviewed some of the key goals of the Campus Plan and how the Project will help to achieve those goals.
62. Dr. Lopez Matthews, Jr. presented testimony regarding public records needs in the District of Columbia and the history of research and development for the Project. Dr. Matthews testified as to the numerous reports commissioned by the District of Columbia to determine the programming and design of the Project. Dr. Matthews also discussed agency and community outreach for the Project as well as the benefits of co-location of the Project on UDC's Campus. Dr. Matthews outlined the unique best practices for an archives facility and how Building 41 cannot meet those needs.
63. Scott Teixeira presented testimony regarding the architecture and design of the Project. Mr. Teixeira reviewed the site plan, circulation and loading plan, floor plans, architectural styling and elevations, landscaping, and materials, among other matters. Mr. Teixeira reiterated how the unique archives programming has driven certain design decisions. Mr. Teixeira also spoke to sustainability issues, including the unique challenges for this Project in achieving "net zero" energy standards.

### **Response to Commission Questions**

64. Commissioner Imamura requested the Applicant's response to DOEE's comments on the applicability of the Greener Government Buildings Amendment Act of 2022, and how this Project may differ from other government projects in terms of achieving the net-zero standard. The Applicant stated that is reviewing the legislative history of the law and how it may apply, but that it would continue those efforts through the permitting process for the Project. (Tr., pg. 48-49). The Applicant outlined the unique programming needs of an archives facility, including the requirement to both heat and cool the building at the same time. (Tr, pg. 227-28).
65. Commissioner Imamura and Vice Chair Miller asked about the replacement of gardens for the UDC garden club to ensure that all gardens have new space on Campus. In response, the Applicant and UDC confirmed they were reviewing other locations on Campus for the gardens and would confirm the new garden space in a post-hearing submission. The



Applicant also outlined the challenges in replacing the gardens within the Project work area due to stormwater management regulations and national archives standards for setbacks from vegetation. (Tr., pg. 50-51, 66-71).

66. Commissioner Imamura and Commissioner Stidham requested an understanding of the linkage between the Project and UDC's curriculum. In response, Dr. Matthews testified that archives staff often works with faculty to help incorporate archival records into classes, and that the nature of archives facilities lends itself to improving research and critical thinking skills for students. (Tr., pg. 52, 64-65). Dr. Eddington confirmed that UDC will work to incorporate the Project and archival records into the academic programming, including internship opportunities and research projects. (Tr. 53-54).
67. The Commissioners asked about the outreach and communication with the community and UDC student body in connection with the Project. The Applicant noted that community outreach began in 2015, and outlined the many public meetings that have occurred since September 2023. (Tr., pgs. 59-61). Additionally, the Applicant noted the student outreach that occurred in connection with the Campus Plan. (Tr. Pgs. 232-34, 226-27).
68. Commissioner Miller requested an understanding of the decision to demolish Building 41 as reflected in the "Co-Location Study." In addition to confirming the recommendation of the "Co-Location Study," the Applicant's architect testified as to the factors that drove the decision to demolish Building 41. In particular, Mr. Teixeira noted that Building 41 does not have the structural support necessary for the archives use, and that the architecture team conducted an analysis of structural strengthening strategies to reuse existing structures. However, the only feasible method of strengthening Building 41 was to construct a brand-new structure to re-support all floors, which would further reduce the floor-to-floor height and available storage volume in the Project. (Tr. 222-24).
69. Commissioner Miller and Chair Hood asked about UDC's decision not to use Building 41 for student housing, including identifying other locations where student housing could be located. Mr. Dussan testified as to the other options UDC is exploring around the neighborhood to increase student housing. (Tr. 225, 230; Ex. 90).

## **V. Conclusions of Law**

1. Pursuant to the authority granted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a campus plan consistent with the requirements of Subtitle X § 100 and Subtitle Z § 302. Pursuant to Subtitle X § 101, the Commission shall evaluate an application for a campus plan amendment and further processing of a campus plan as a special exception:

*Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter. (Subtitle X § 101.1.)*

*Approval of a campus plan shall be based on the determination by the Zoning Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section. (Subtitle X § 101.14.)*

2. Section 8 of the Zoning Act (*see also* Subtitle X § 901.2) establishes that the Commission may grant special exception relief upon its determination that the special exception:
  - Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
  - Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and
  - Complies with the special conditions specified in the Zoning Regulations.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Commission's discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and "if the applicant meets its burden, the [Commission] ordinarily must grant the application." *See First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).

3. Based on the record before the Commission, the Commission concludes the Applicant has met the burden of proof pursuant to Subtitle X § 101 and the general special exception standard under Subtitle X § 901.2, and that the requested amendment to the Campus Plan and the further processing thereof can be granted.
4. Pursuant to Subtitle X § 101.2, the Commission concludes the Project is not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions. The Project is an archives facility that is primarily intended for storage and research of public records and, therefore, is not likely to create noise impacts. The Project will also be setback from Van Ness Street NW and is otherwise buffered from neighboring non-Campus uses. With respect to traffic and parking, the Commission notes the Project is not expected to generate a significant number of visitors on a day-to-day basis. Additionally, the Campus parking garage can provide sufficient parking for OPR staff and visitors to the Project. The Commission credits the findings of the Applicant's transportation expert in the Transportation Report as well as DDOT's report. The Commission also finds that the Project will not increase the number of students. The prior use of Building 41 attracted more students than expected for the Project.
5. Pursuant to Subtitle X §§ 101.3 and 101.4, the Commission concludes the Project is not a commercial use.

6. Pursuant to Subtitle X §§ 101.5 through 101.7 and 101.12, the Commission finds the Project is consistent with the maximum height and floor-area-ratio requirements in the R zones for an institutional building. The Commission notes the Project has height and square footage in comparison to Building 41. As such, the Project will reduce the total floor-area-ratio on Campus and is less than the maximum set forth under the Campus Plan.
7. Pursuant to Subtitle X § 101.8, the Commission approved UDC's Campus Plan pursuant to Zoning Commission Order No. 20-33.
8. Pursuant to Subtitle X §§ 101.9 and 101.14, the Commission concludes the Project complies with the general standard for special exception relief. The Commission finds the Application is harmonious with the purpose and intent of the Zoning Regulations and Zoning Map because the Project achieves a significant need for the District of Columbia while also providing benefits to the District of Columbia's only public university and its student body. The Project is consistent with many of the goals set forth in the Campus Plan. The Project is designed to be consistent with the zoning standards in the R-1-B zone as reflected in the Campus Plan. The Commission also finds the Project will not adversely affect the use of neighboring properties for the same reasons set forth under Paragraph 4 of the Conclusions of Law.
9. Pursuant to Subtitle X § 101.10, the Project does not propose an interim off-Campus use of land.
10. Pursuant to Subtitle X § 101.11, the Commission concludes the Application is not inconsistent with the Comprehensive Plan as viewed through a racial equity lens. The Commission finds the Project is consistent with the FLUM and GPM designations for the Property as well as the District-wide policies set forth under the Education Element, Urban Design Element, Community Services and Facilities Element, Arts and Culture Element, Environmental Element and Rock Creek West Area Element. Overall, the Commission finds the Project will further racial equity by providing a critical investment in UDC, which serves mainly minority students. The Project will improve the built environment on the Campus as well as accessibility to and from Campus. The Project also provides excellent benefits to UDC faculty, staff and students through both educational, research and employment opportunities.
11. In finding the Application meets the standards under Subtitle X § 101 and Subtitle X § 901.2, the Commission acknowledges the persons that provided testimony and letters in opposition to the Project. However, the Commission concludes the Applicant has provided responses to such opposition.
12. Many individuals testified that Building 41 should not be demolished, but, instead, should be renovated for another use, such as student housing. However, the Commission credits testimony and evidence in the record that Building 41 was not designated for student housing in the Campus Plan. Additionally, Building 41 is in poor condition and is not designed for modern uses. UDC testified it does not have the funds to renovate Building

41 for another use, and the Applicant's architect testified as to the challenges and cost-prohibitive nature of retro-fitting Building 41 to meet the unique programming requirements of an archives facility, including the heavier structural loads, taller floor-to-floor heights, stringent building envelope, and overall square footage. The Commission also notes the Campus Plan did not designate Building 41 for student housing. Rather, the Project meets many of the goals set forth in the Campus Plan, including to create a more vibrant and modern-looking Campus.

13. Individuals raised concerns over the closing of approximately 6,160 sq. ft. of gardens adjacent to the Building 41, which are used by the UDC Garden Club. The Applicant addressed these concerns by working to find new space for the gardens. The record reflects that 1,785 sq. ft. of land located within the Project work area will be used for garden space. Additionally, UDC has committed to providing 9,300 sq. ft. of garden space located to the north of the Project. Therefore, following the Project, there will be more garden space on Campus compared to current conditions.
14. There were also concerns raised regarding engagement with the UDC student body on the Project. However, UDC conducted engagement with students as part of the Campus Plan, which reflected UDC's intent to bring the D.C. archives to the Campus. UDC's decision to work with the District of Columbia on the Project was also public through UDC's Operations Committee and Board of Trustees. The Applicant conducted substantial community outreach in connection with the Project as well.
15. Several individuals testified regarding sustainability aspects of the Project and questioned whether the Project was required to achieve "net zero" energy standards pursuant to the Greener Government Buildings Amendment Act of 2022. The Commission defers to DOEE on the applicability of the Greener Government Buildings Amendment Act of 2022. Nonetheless, the Commission agrees with the Applicant that the Project presents unique challenges in achieving "net zero" energy standards, including the size of the work area and other nearby uses of the Campus. Further, the Project is the result of a decade of studies and reports conducted by the Applicant and the District of Columbia government. In particular, the Applicant and UDC carefully studied several options for achieving the archives project on Campus in the 2018 "Co-Location Study." The study concluded that demolition of Building 41 and construction of a new stand-alone building was the recommended course of action due to several factors, including the poor condition of Building 41 and the specific programming for the archives use.

#### **"Great Weight" to the Recommendations of OP**

16. The Commission must give "great weight" to the recommendation of OP, pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086-87 (D.C. 2016)).
17. The Commission finds persuasive OP's report recommending approval of the Application and concurs in that judgment.

**“Great Weight” to the Written Report of the ANC**

18. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy this great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).
19. ANC 3F submitted a report in support of the Application. The ANC’s report does not reference any issues or concerns with the Application or Project. The Commission finds persuasive ANC 3F’s recommendation.

**DECISION**

Based on the case record, the testimony at the public hearing, and the above Findings of Fact and Conclusions of Law, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application for:

- An amendment to the 2020-2029 Campus Plan for the University of the District of Columbia as reflected in Zoning Commission Order No. 20-33; and
- Further Processing under the 2020-2029 Campus Plan for the University of the District of Columbia.

Said approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text.

**A. Project Development**

1. The Project shall be developed substantially in accordance with the architectural plans and drawings submitted on September 1, 2023 at Exhibits 23A1-A5 (the “Architectural Plans”), subject to the following areas of flexibility:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided such variations do not change the exterior configuration or appearance of the building;

- b. To vary the final selection of the colors of the exterior materials, based on availability at the time of construction, provided such colors are within the color ranges shown on the Architectural Plans approved by the Commission;
- c. To make minor refinements to exterior façade details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, balcony railings and trim, or any other changes, providing such minor refinements do not substantially alter the Architectural Plans approved by the Commission and are necessary to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit;
- d. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the D.C. Department of Transportation's Public Space Division;
- e. To vary the final Project, landscaping dimensions and materials as shown on the Architectural Plans based on either (i) availability and suitability at the time of construction, or (ii) to satisfy permitting requirements of the D.C. Department of Energy and Environment; and
- f. To refine the Project's roof level to incorporate elevator roof access in place of roof hatches as reflected in the Architectural Plans, provided any elevator access will comply with all requirements of the Zoning Regulations.

**B. Prior to the Issuance of a Certificate of Occupancy for the Project**, the Applicant shall provide proof in the form of photographic evidence that approximately 9,300 sq. ft. of land on Campus has been provided for gardens to be used by the UDC Garden Club in a location generally consistent with that reflected in Exhibit 90C of the case record.

**C. Miscellaneous**

- 1. The Application approved herein shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit. Construction must begin within three years of the effective date of this Order.
- 2. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act.

Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

**Final Action**

Vote (October 26, 2023): 4-0-1 (Anthony J. Hood, Robert E. Miller, Tammy Stidham and Dr. Joseph S. Imamura to APPROVE; one seat vacant)

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on \_\_\_\_\_.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

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**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.